

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Patrick Studley; NJS, *Minor, a minor by and*
through their father and guardian Patrick)
Studley parental natural guardian; BCS,)
Minor, a minor by and through their father)
and guardian Patrick Studley parental)
natural guardian; CGS, Minor, a minor by)
and through their father and guardian)
Patrick Studley parental natural guardian,)
Plaintiffs,)

Civil Action No.: 3:16-cv-00439-JMC

v.)

ORDER AND OPINION

Joey Watford; Heather Studley; Richland)
County Sheriff's Department,)
Defendants.)

Plaintiff Patrick Studley ("Plaintiff"), proceeding pro se, brings this action on behalf of himself and his minor children pursuant to 42 U.S.C. § 1983. Plaintiff files this action *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff alleges that Defendant Joey Watford made false statements to the court during Plaintiff's bond hearing, which resulted in the loss of Plaintiff's custodial and parental rights. (ECF No. 1 at 3-4). Plaintiff further alleges that Defendant Heather Studley filed false police reports, which allegedly resulted in Plaintiff being rendered unable to contact his children. (ECF No. 1 at 4). Finally, Plaintiff alleges that Defendant Richland County Sheriff's Department improperly listed Defendant Watford as a victim on its police report which led to the false arrest of Plaintiff. (*Id.*) Plaintiff seeks compensatory and punitive damages, as well as an injunction. (ECF No. 1 at 5).

This matter is before the court pursuant to 28 U.S.C. § 1915(e)(2)(B), which requires the court to dismiss civil actions filed *in forma pauperis* if they are frivolous or fail to state a claim

upon which relief can be granted. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Paige Gossett for a Report and Recommendation. On April 15, 2016, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending the court dismiss the petition without prejudice and without service of process because Plaintiff’s claims against the listed defendants are not cognizable under section 1983. (ECF No. 12). The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation, or recommit the matter with instructions. *See* 28 U.S.C. § 636 (b)(1). Objections to a Report and Recommendation must specifically identify portions of the Report and the basis for those objections. Fed. R. Civ. P. 72(b). “[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Plaintiff was advised of his right to file objections to the Report.¹ (ECF No. 12 at 8). Plaintiff was required to file objections by May 2, 2016. To date, Plaintiff has not filed any objections to the report. Accordingly, this court has reviewed the Report of the Magistrate Judge and does not find clear error.

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 12). It is therefore **ORDERED** that Plaintiff's action (ECF No. 1) is **DISMISSED** without prejudice and service of process.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

May 16, 2016
Columbia, South Carolina

¹ The Magistrate Judge's Report was mailed to Plaintiff on April 15, 2016 (ECF NO. 13), but was returned to the court as undeliverable on April 19, 2016 (ECF No. 14).